



USDA Foreign Agricultural Service

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## European Union

### Food and Agricultural Import Regulations and Standards

### Consultation on Improvement of Mutual Recognition

**2004**

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**Report Highlights:**

The European Commission has launched an Internet consultation on how to improve the practical application of the principle of mutual recognition, which underpins the EU Internal Market. Interested parties are invited to respond to a questionnaire by April 30, 2004. Mutual recognition should allow products legally sold in one Member State to be sold in all the others without having to comply with different rules in each Member State, thus avoiding a costly technical and bureaucratic burden for businesses. Earlier last year, the Commission had published a document clarifying the mutual recognition principle.

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Includes PSD Changes: No  
Includes Trade Matrix: No  
Unscheduled Report  
Brussels USEU [BE2]  
[E2]

Mutual recognition applies to goods for which there is no EU Directive or Regulation establishing a single set of harmonized EU rules applicable in all Member States, covering for example technical specifications, compositional and packaging requirements. The European Commission recognizes that many national administrations and economic operators seem to be unfamiliar with the mutual recognitions principle or find it difficult to apply.

Interested parties are invited to respond by 30 April 2004 to a questionnaire available through the Commission's dedicated consultation site "Your Voice in Europe" at:

**<http://europa.eu.int/yourvoice/consultations>**.

Mutual recognition is a corner stone of the Internal Market. It means that the Member State of destination should allow the sale of all products legally marketed or manufactured in another Member State unless national and more restrictive rules are necessary to guarantee an equivalent level of protection, mainly for the consumer or the environment.

The principle is that there are no specific procedural rules and no extra paperwork. That is its strength, but at the same time its weakness. When problems occur, there is little or no transparency, there is no commonly agreed approach to evaluating whether levels of protection are equivalent and there is no clear procedure for a company to challenge decisions refusing to allow their goods in to national markets. As a result, many companies decide to abandon certain markets or are forced to modify their products to comply with local requirements, which in the end puts prices up. Such responses risk becoming more widespread after enlargement.

The Commission is therefore examining how it can make mutual recognition work better for products. As a first step, the European Commission published in October 2003 a Communication clarifying the "mutual recognition" principle, available from

**[http://europa.eu.int/eur-lex/pri/en/oj/dat/2003/c\\_265/c\\_26520031104en00020016.pdf](http://europa.eu.int/eur-lex/pri/en/oj/dat/2003/c_265/c_26520031104en00020016.pdf)**.

This communication aims to improve the application of mutual recognition by providing a summary of how it should work and the rights that it gives to economic operators. The communication is a practical guide to enable Member States and economic operators to benefit from the free movement of products in the many sectors where there are no "harmonized" rules ensuring the free movement of goods within the EU. The document makes clear that Member States must allow the placing on their markets of any product lawfully manufactured and/or marketed in another Member State, unless a Member State has technical or scientific proof that the product constitutes a risk for human health, safety or the environment. The communication also clarifies the burden of proof and summarizes when and how the free movement of goods can be restricted.

The Commission is also considering to draft a proposal to legally reinforce the practical application of mutual recognition.

A proposal by the Commission in this respect could, for example, include:

- specific rules to give mutual recognition more structure, thus enhancing transparency and encouraging national authorities to act in a more 'European' spirit
- mandatory notification to the Commission in cases where mutual recognition is refused
- setting up appeal mechanisms for companies whose goods have been refused.

For background documents and additional information on mutual recognition, see:

[http://europa.eu.int/comm/internal\\_market/en/goods/mutrec.htm](http://europa.eu.int/comm/internal_market/en/goods/mutrec.htm)

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